United Nations A/ES-10/231–S/2003/834

General Assembly
Security Council

Distr.: General
25 August 2003

Original: English

General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestine Territory

Security Council
Fifty-eighth year

Identical letters dated 25 August 2003 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Israel, the occupying Power, yesterday committed yet another extrajudicial killing. Helicopter gunships fired missiles at a car travelling in Gaza City, killing four Palestinian men and wounding at least eight other people. This war crime follows the extrajudicial killing committed three days prior, on 21 August 2003, when the Israeli occupying forces, using helicopter gunships, killed Mr. Ismail Abu Shanab, a political leader of Hamas, and two other Palestinian men in Gaza. Israel has claimed that these killings were committed in retaliation for the suicide bombing that occurred in West Jerusalem on Tuesday, 19 August. However, the fact remains that throughout the period since the unilateral declaration of a ceasefire (hudna) by Palestinian groups on 29 June 2003, Israel has not stopped its attacks on Palestinians, particularly those declared by the occupying Power to be "targeted" for assassination. This is tragically reflected in the annexed list of Palestinian martyrs. These killings have been carried out by the occupying Power in blatant violation of international law as well as in violation of the terms of the road map, which requires Israel to immediately end "violence against Palestinians everywhere".

Furthermore, during this period, the Israeli occupying forces have continued to detain and imprison hundreds of Palestinians in addition to the thousands who continue to be held by the occupying Power, to demolish homes and to impose restrictions on the freedom of movement of persons and goods throughout the Occupied Palestinian Territory, including East Jerusalem. Such actions and measures have impeded efforts to improve the situation on the ground and ameliorate the humanitarian crisis being faced by the Palestinian people. Moreover, in the past week, the Israeli occupying forces have made several incursions into Palestinian cities and towns, particularly Nablus, Jenin and Tulkarem.

It is clear that, from the very beginning, Mr. Sharon and his government have been bent on destroying the road map — or at the very least preventing its implementation — as they have done with previous peace efforts, such as the Mitchell recommendations and the Tenet plan. At this stage, Israeli officials are

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indicating that the extrajudicial killings, in addition to other war crimes being committed, will continue, thus ensuring the potentially catastrophic decline of the situation. As such, we believe that the international community, the members of the Quartet and the Security Council must intervene with the aim of stabilizing the situation on the ground and safeguarding and promoting peace efforts between the two sides.

The present letter is in follow-up to our previous 168 letters to you regarding the crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 27 June 2003 (A/ES-10/229-S/2003/677), constitute a basic record of the crimes committed by the Israeli occupying forces against the Palestinian people since September 2000. For all of these war crimes, State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

Accordingly, in follow-up to the above-mentioned letters, I deeply regret to inform you that, since my last letter, at least 28 Palestinians, including women and children, have been killed by the Israeli occupying forces, raising the total number of martyrs to 2,510 Palestinians. (The names of the martyrs that have been identified thus far are contained in the annex to the present letter.)

I would be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(*Signed*) Nasser **Al-Kidwa**
Ambassador
Permanent Observer of Palestine to the United Nations

Annex to the identical letters dated 25 August 2003 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Names of martyrs killed by Israeli occupying forces in the Occupied Palestinian Territory, including Jerusalem* (Tuesday, 1 July 2003 through Sunday, 24 August 2003)

Tuesday, 1 July 2003

Nimer Taher Musa Jayusi

Thursday, 3 July 2003

1. Mohammed Shawir Mohammed Al-Nees
2. Omar Mohammed Yussef Omar (15 years old)

Saturday, 5 July 2003

Majdi Abu Shlouf

Wednesday, 9 July 2003

Eyad Mohammed Akel Shalameesh

Friday, 11 July 2003

Yezzen Ibrahim Mahmoud Al-Tabil (11 years old)

Thursday, 17 July 2003

Ahmed Naji Zakariyah Shahouri (12 years old)

Monday, 21 July 2003

Rami Ali Khalil Saleet

Friday, 1 August 2003

1. Rawhi Hamouda Al-Hore
2. Ahmed Mohammed Al-Hindi (13 years old)

Sunday, 3 August 2003

Salman Mohammed Ahmed Abu-Ghalya

Monday, 4 August 2003

Nehad Riziq Mohammed Qassem

* The total number of Palestinian martyrs killed by Israeli occupying forces since 28 September 2000 is 2,510.

Tuesday, 5 August 2003

Munir Baker Hassen Abu-Heen (14 years old)

Friday, 8 August 2003

1. Khamees Yussef Abu Salem
2. Fayez Fareed Hamid Al-Sadir
3. Fawzi Ahmed Fawzi Al-Alami
4. Mahmoud Tayseer Al-Tik

Thursday, 14 August 2003

Mohammed Ayoub Dahoud Sidr

Tuesday, 19 August 2003

Khadra Yussef Hussein 'Ara

Thursday, 21 August 2003

1. Saeed Awad Ghanim (15 years old)
2. Ismail Hassan Abu Shanab
3. Hani Majid Abu Al-Omaren
4. Mo-min Mohammed Salman Barood

Friday, 22 August 2003

Khaled Al-Namrooti

Sunday, 24 August 2003

1. Ahmed Shatiwi
2. Wahid Hamid Al-Hums
3. Mohammed Abu Libdeh
4. Ahmed Abu Hilal

United Nations S/2003/835

Security Council

Distr.: General
27 August 2003

Original: English

Draft resolution

The Security Council,

Recalling its resolutions 827 (1993) of 25 May 1993, 955 (1994) of 8 November 1994, 978 (1995) of 27 February 1995, 1165 (1998) of 30 April 1998, 1166 (1998) of 13 May 1998, 1329 (2000) of 30 November 2000, 1411 (2002) of 17 May 2002, 1431 (2002) of 14 August 2002, and 1481 (2003) of 19 May 2003,

Noting the letter from the Secretary-General to the President of the Security Council dated 28 July 2003 (S/2003/766),

Commending the important work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) in contributing to lasting peace and security in the former Yugoslavia and Rwanda and the progress made since their inception,

Noting that an essential prerequisite to achieving the objectives of the ICTY and ICTR Completion Strategies is full cooperation by all States, especially in apprehending all remaining at-large persons indicted by the ICTY and the ICTR,

Welcoming steps taken by States in the Balkans and the Great Lakes region of Africa to improve cooperation and apprehend at-large persons indicted by the ICTY and ICTR, but noting with concern that certain States are still not offering full cooperation,

Urging Member States to consider imposing measures against individuals and groups or organizations assisting indictees at large to continue to evade justice, including measures designed to restrict the travel and freeze the assets of such individuals, groups, or organizations,

Recalling and reaffirming in the strongest terms the statement of 23 July 2002 made by the President of the Security Council (S/PRST/2002/21), which endorsed the ICTY's strategy for completing investigations by the end of 2004, all trial activities at first instance by the end of 2008, and all of its work in 2010 (ICTY Completion Strategy) (S/2002/678), by concentrating on the prosecution and trial of the most senior leaders suspected of being most responsible for crimes within the ICTY's jurisdiction and transferring cases involving those who may not bear this level of responsibility to competent national jurisdictions, as appropriate, as well as the strengthening of the capacity of such jurisdictions,

Urging the ICTR to formalize a detailed strategy, modelled on the ICTY Completion Strategy, to transfer cases involving intermediate- and lower-rank

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accused to competent national jurisdictions, as appropriate, including Rwanda, in order to allow the ICTR to achieve its objective of completing investigations by the end of 2004, all trial activities at first instance by the end of 2008, and all of its work in 2010 (ICTR Completion Strategy),

Noting that the above-mentioned Completion Strategies in no way alter the obligation of Rwanda and the countries of the former Yugoslavia to investigate those accused whose cases would not be tried by the ICTR or ICTY and take appropriate action with respect to indictment and prosecution, while bearing in mind the primacy of the ICTY and ICTR over national courts,

Noting that the strengthening of national judicial systems is crucially important to the rule of law in general and to the implementation of the ICTY and ICTR Completion Strategies in particular,

Noting that an essential prerequisite to achieving the objectives of the ICTY Completion Strategy is the expeditious establishment under the auspices of the High Representative and early functioning of a special chamber within the State Court of Bosnia and Herzegovina (the "War Crimes Chamber") and the subsequent referral by the ICTY of cases of lower- or intermediate-rank accused to the Chamber,

Convinced that the ICTY and the ICTR can most efficiently and expeditiously meet their respective responsibilities if each has its own Prosecutor,

Acting under Chapter VII of the Charter of the United Nations,

1. *Calls* on the international community to assist national jurisdictions, as part of the completion strategy, in improving their capacity to prosecute cases transferred from the ICTY and the ICTR and encourages the ICTY and ICTR Presidents, Prosecutors, and Registrars to develop and improve their outreach programmes;

2. *Calls* on all States, especially Serbia and Montenegro, Croatia, and Bosnia and Herzegovina, and on the Republika Srpska within Bosnia and Herzegovina, to intensify cooperation with and render all necessary assistance to the ICTY, particularly to bring Radovan Karadzic and Ratko Mladic, as well as Ante Gotovina and all other indictees to the ICTY and calls on these and all other at-large indictees of the ICTY to surrender to the ICTY;

3. *Calls* on all States, especially Rwanda, Kenya, the Democratic Republic of the Congo, and the Republic of the Congo, to intensify cooperation with and render all necessary assistance to the ICTR, including on investigations of the Rwandan Patriotic Army and efforts to bring Felicien Kabuga and all other such indictees to the ICTR and calls on this and all other at-large indictees of the ICTR to surrender to the ICTR;

4. *Calls* on all States to cooperate with the International Criminal Police Organization (ICPO-Interpol) in apprehending and transferring persons indicted by the ICTY and the ICTR;

5. *Calls* on the donor community to support the work of the High Representative to Bosnia and Herzegovina in creating a special chamber, within the State Court of Bosnia and Herzegovina, to adjudicate allegations of serious violations of international humanitarian law;

6. *Requests* the Presidents of the ICTY and the ICTR and their Prosecutors, in their annual reports to the Council, to explain their plans to implement the ICTY and ICTR Completion Strategies;

7. *Calls* on the ICTY and the ICTR to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008, and to complete all work in 2010 (the Completion Strategies);

8. *Decides* to amend Article 15 of the Statute of the International Tribunal for Rwanda and to replace that Article with the provision set out in Annex I to this resolution, and requests the Secretary-General to nominate a person to be the Prosecutor of the ICTR;

9. *Welcomes* the intention expressed by the Secretary-General in his letter dated 28 July 2003, to submit to the Security Council the name of Mrs. Carla Del Ponte as nominee for Prosecutor for the ICTY;

10. *Decides* to remain actively seized of the matter.

Annex I

Article 15
The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994.

2. The Prosecutor shall act independently as a separate organ of the International Tribunal for Rwanda. He or she shall not seek or receive instructions from any government or from any other source.

3. The Office of the Prosecutor shall be composed of a Prosecutor and such other qualified staff as may be required.

4. The Prosecutor shall be appointed by the Security Council on nomination by the Secretary-General. He or she shall be of high moral character and possess the highest level of competence and experience in the conduct of investigations and prosecutions of criminal cases. The Prosecutor shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Prosecutor shall be those of an Under-Secretary-General of the United Nations.

5. The staff of the Office of the Prosecutor shall be appointed by the Secretary-General on the recommendation of the Prosecutor.

United Nations S/2003/836

Security Council

Distr.: General
27 August 2003

Original: English

Letter dated 25 August 2003 from the President of the Economic and Social Council addressed to the President of the Security Council

I wish to bring to the attention of the members of the Security Council recent developments in the work of the Economic and Social Council on African post-conflict countries.

First, the Council has continued to closely follow the situation in Guinea-Bissau. I wish in that respect to draw your attention to the letter addressed to me by Ambassador Dumisani Kumalo, Permanent Representative of South Africa to the United Nations and Chairman of the Ad Hoc Advisory Group on Guinea-Bissau, and its attached supplementary report on the work carried out by the Group since January 2003 (E/2003/95). That document was submitted to the Economic and Social Council at its recently held substantive session. After considering it, the Council adopted resolution 2003/__ of 24 July 2003 (see E/2003/L.23/Rev.1).

I am pleased to note that, as explained in the report of the Advisory Group, there have been growing working relationships between the Economic and Social Council and the Security Council on the situation in Guinea-Bissau, including a joint mission to that country from 26 to 28 June 2003. Ambassador Gaspar Martins, Permanent Representative of Angola and Chairman of the Ad Hoc Working Group of the Security Council on Conflict Prevention and Resolution in Africa, has taken an active part in the work of the Advisory Group and has been instrumental in leading that collaboration to the point of taking concrete actions.

Second, following a request formulated by the authorities of Burundi, the Economic and Social Council, in its resolution 2003/16 of 21 July 2003, established an Ad Hoc Advisory Group on that country. The composition and mandate of the Group were defined in decision 2003/__ of 22 August 2003 (see E/2003/L.48, as orally amended). The Group will start its work very shortly and will invite Ambassador Martins to participate in it.

As the Ad Hoc Advisory Group on Guinea-Bissau continues its work, its mandate having been extended until the organizational session for 2004 of the Economic and Social Council, to be held in January 2004, and as the Group on Burundi enters into its operational phase, I look forward to continued interaction between our two bodies on the support to be provided to African post-conflict countries and on other issues of common interest.

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I would be grateful if the present letter could be circulated as a document of the Security Council.

(*Signed*) Gert **Rosenthal**